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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 09/890,025   | 01/29/2002  | Paul Steabben Hepworth | 20010326.ORI        | 5916             |
| 23595  | 7590        | 05/19/2004             | EXAMINER            |                  |
| NIKOLAI & MERSEREAU, P.A.<br>900 SECOND AVENUE SOUTH<br>SUITE 820<br>MINNEAPOLIS, MN 55402 |             |                        | CHOI, STEPHEN       |                  |
|  |             |                        | ART UNIT            | PAPER NUMBER     |
|  |             |                        | 3724                |                  |

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/890,025

Applicant(s)

HEPWORTH, PAUL STEABBEN

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Metzger, Jr. et al. (US 4,846,036).

Metzger discloses all the recited elements of the invention including a base (5), cutting means (13), guide means having respective portions wherein one of the portions comprising relatively movable two components (27, 51) and one portion of the guide means is directly attached to the other of the portions (via 79) to directly pull and push the other of the portions into and out of engagement. Regarding claim 2, a locking lever (65). Regarding claim 3, a grip bar (35), a slidable member having a surface (51), and at least one wing having a surface (27). Regarding claim 6, a pivot pin (63).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metzger, Jr. et al. (US 4,846,036) in view of Schnitzer (US 2,342,700).

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Metzger discloses the invention substantially as claimed except for a plurality of ribs and at least one complementary engagement rib. Schnitzer discloses a plurality of ribs (8) and at least one complementary engagement rib (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of ribs and at least one complementary engagement rib as taught by Schnitzer on the device of Metzger in order to improve locking of guide means in a desired position.

5. Claims 7-9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metzger, Jr. et al. (US 4,846,036) in view of Shiotani et al. (US 5,293,802).

Metzger discloses the invention substantially as claimed except for cam means and a lip. Shiotani discloses a locking lever having cam means (406). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ cam means as taught by Shiotani on the device of Metzger as an alternative means for operating the locking lever. Furthermore, Shiotani discloses a lip (216) for clamping and guiding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lip as taught by Shiotani on the device of Metzger in order to facilitate guiding and clamping of the guide means. Applicant should note that the limitation "slot means" is not in compliance with the Supplemental Guidelines published in the Official Gazette on July 25, 2000. Such limitations cannot be used to invoke 35 USC 112, 6th paragraph, and have therefore been given their broadest reasonable interpretation, without considering equivalence. The "means for" must be modified by functional language. Regarding claim 18, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to use plastic mouldings, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

6. Claims 10-13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metzger, Jr. et al. (US 4,846,036) in view of Denmead (US 1,826,056).

Metzger discloses the invention substantially as claimed except for article location means. Denmead discloses article location means (31) including a right-angled recess (32), lips (see Figures 1-2), an arcuate slot (see Figure 2), and a clamping element (33). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the article location means as taught by Denmead on the device of Metzger in order to provide means for positioning the workpiece in a desired angle relative to a cutter. Regarding claim 17, the modified device of Metzger discloses an indicator (protractor). However, the modified device of Metzger fails to disclose the indicator provided at the guide means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the indicator on the guide means, since it has been held that rearranging parts of an invention involves only routine skill in the art.

7. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metzger, Jr. et al. (US 4,846,036) in view of Denmead (US 1,826,056) as applied to claim 10 above, and further in view of Ruben (US 2,990,862).

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The modified device of Metzger discloses the invention substantially as claimed except for a slidable member. Ruben discloses a slidable member (8) to slidable move article location means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the slidable member as taught by Ruben on the modified device of Metzger in order to provide means for slidably positioning the article locations means along the guide means to facilitate positioning of the workpiece.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC  
14 May 2004

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**